

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANIEL MAXIE,

No. C-04-2255 MMC

Plaintiff,

**ORDER GRANTING DEFENDANT
MATSON NAVIGATION COMPANY'S
MOTION TO AMEND; VACATING
HEARING**

v.

HORIZON LINES, LLC and MATSON
NAVIGATION COMPANY,

(Docket No. 31)

Defendants.

Before the Court is defendant Matson Navigation Company's ("Matson") "Motion To Amend Pleadings To Determine Respective Rights Of Indemnity Or Contribution," filed September 23, 2005. To date, plaintiff Daniel Maxie and defendant Horizon Lines, LLC have not filed a response to the motion. Third-party defendant U.S. Ship Management, Inc. ("USSM") has filed a statement of nonopposition. Having read and considered the papers filed in support of and in nonopposition to the motion, the Court finds the matter appropriate for resolution without oral argument, see Civil L.R. 7-1(b), and hereby VACATES the October 28, 2005 hearing on the instant motion.¹

In the instant motion, Matson seeks a court order "that all defendants be deemed to seek indemnity or contribution from each other in this action" or, alternatively, that all

¹ The hearing on USSM's motion for summary adjudication is addressed by separate order.

1 defendants be granted leave to amend their pleadings to allege claims to such effect. The
2 Court will not deem defendants to have asserted claims that do not appear in their
3 pleadings. Rule 8 of the Federal Rules of Civil Procedure expressly requires all pleadings
4 to include "a demand for the relief the pleader seeks." See Fed. R. Civ. P. 8(a).

5 No party has objected to Matson's request that the defendants be permitted to
6 amend their pleadings to assert claims for contribution and/or indemnity, however, and the
7 Court notes that Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to
8 amend "shall be freely given when justice so requires." See Fed. R. Civ. P. 15(a).

9 Accordingly, Matson's motion for leave to amend is hereby GRANTED. No later
10 than November 4, 2005, any defendant who wishes to assert a claim for contribution or
11 indemnity shall file a pleading asserting such claim.

12 This order terminates Docket No. 42.

13 **IT IS SO ORDERED.**

14 Dated: October 17, 2005


MAXINE M. CHESNEY
United States District Judge